IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 4945 of 2005

Between:

Sk. Nooruddin S/o Razak Saheb
r/o H. No. 7-809-22, Guruthota, Ranganayakulapeta, Nellore

..... PETITIONER

AND

1 The District Collector, Nellore, Nellore District
2 the Revenue Divisional Officer, Nellore, Nellore District
3 The Mandal Revenue Officer, Nellore Mandal, Nellore District
4 The Estate Officer and Additional Divisional Railway Manager South Central Railway, Vijayawada

..RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ, order or direction, more particularly one in the nature of Writ of Mandmaus, declaring the action of the respondents in trying to dispossess the petitioner from the Land in Plot Bearing No. 6 Survey No. 96 of Nellore Bit-II without giving any prior notice not following any procedure laid down in law as arbitrary, illegal and violtive of Article 14 and 19 of Constitution of India and consequently direct the respondents not to dispossess and interfere with petitioner's peaceful possession and enjoyment of the land.

Counsel for the Petitioner:MRS.A.BALA BARATHI

Counsel for the Respondents No.1 to 3:: GP FOR REVENUE

Counsel for the Respondent NO.4: MR. P.GANGARAMI REDDY

Standing Counsel for Railways.

The Court made the following :

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ORDER:

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1. This writ petition is filed by Shaik Nooruddin with a prayer to issue writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in trying to dispossess the petitioner from the land in Plot bearing No.6, Survey No.96 of Nellore, Bit-II without giving any prior notice and not following any procedure laid down in law as arbitrary, illegal and violative of Articles 14 and 19 of Constitution of India.

2. It is the case of the writ petitioner that Government assigned the land to him in the year 1974 vide R.Dis.No.2352/74, dated 24-8-1974 and since then he has been in possession of the land. It is the further case of the petitioner that he constructed a weighing bridge in the land and, therefore, the action of the respondents in dispossessing him from the land without issuing notice is violative of Articles 14 and 19 of the Constitution of India.

3. The respondents filed counter-affidavit. One Sandeep Jain has sworn to the counter affidavit, it is stated in the counter-affidavit that the land in Survey No.96 consisting of Ac. 6-60 belongs to 4th respondent-Railways and that the writ petitioner illegally occupied part of it by constructing a thatched hut.

4 . Heard the learned counsel for the petitioner and learned Standing counsel appearing for the respondent No.4.

5. It is not in dispute that the petitioner is in occupation of the land in question. It is the contention of the writ petitioner that the land has been assigned by the Mandal Revenue Officer, Nellore, Nellore District. Whereas, the contention of the 4th respondent is that the land bearing Survey No.96 consisting of Ac. 6-60 belongs to it. The fact remains that the writ petitioner has been in possession of the land in question over a considerable period. In such a case, principles of natural justice require a notice to him before being evicted from the land in question.

6. Accordingly, the writ petition is disposed of directing the respondents not to dispossess the writ petitioner from the land in question without following due procedure established under the law. No order as to costs.

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B.Seshasayana Reddy,J

27th June, 2005.

KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector, Nellore, Nellore District
2 the Revenue Divisional Officer, Nellore, Nellore District
3 The Mandal Revenue Officer, Nellore Mandal, Nellore District
4 The Estate Officer and Additional Divisional Railway Manager South Central Railway, Vijayawada

5. 2 CCs to G.P. for Revenue, High Court Buildings, Hyderbad (OUT)

6. 2 CD copies

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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27th June, 2005.